

## REMARKS

Claims 1-30 were examined in the 12/14/2004 office action.

The office action rejected all claims under 35 U.S.C. § 101 on double patenting grounds, on the basis that the invention claimed in this application is the same as the invention claimed in copending application no. 10/014196. It is respectfully submitted that the rejection was improper. Assuming *arguendo* that the inventions in the two applications are the same, double patenting requires the existence of a *patent*. No patent has issued on either application, and each may proceed independently until a patent issues on one.

The office action rejected claims 18 and 20 under 35 U.S.C. § 112 as indefinite for lack of antecedent basis for the term "the profile". The foregoing amendment addresses that rejection.

The office action rejected claims 18-30 under 35 U.S.C. § 102(e) as anticipated by U.S. Publication No. 2002/0152463 to Dudkiewicz. For the following reasons, it is respectfully submitted that Dudkiewicz does not anticipate these claims.

Amended claim 18 is set forth below, with italics indicating limitations that are not disclosed in the sections of Dudkiewicz cited as anticipating:

18. A system for creating media alerts, comprising:

a receiver device constructed to receive and scan signals containing media content from multiple sources;

a storage device capable of receiving and storing user defined alert profile information;

a processor linked to the receiver and *constructed to extract identifying information from a plurality of scanned signals containing media content*;

a comparing device constructed to compare *the extracted identifying information* to the profile information and when a match is detected, make the signal containing the media content available for review.

The Dudkiewicz system includes a video receiver 60 that can receive signals containing media content and a data processor 68 whose function is not defined. There appears to be no disclosure in Dudkiewicz that data processor 68 extracts identifying information from received and scanned

signals containing media content, or that identifying information extracted from received and scanned signals containing media content is compared to profile information. Rather, the Dudkiewicz system includes a metadata receiver 64 for receiving metadata 66, such as a modem that is programmed to periodically access a remote server where metadata 66 is located, and compares such metadata with profile data. Accordingly, claim 18 is not anticipated by Dudkiewicz. Claims 19-30 are allowable at least because of their dependence on claim 18.

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Publication No. 2002/0147984 to Tomsen et al. in view of U.S. Patent No. 6449767 to Krapf et al. Claim 1 has been amended to specify that the identifying information characterizing the content of the source is extracted from the content of the source. It is respectfully submitted that the inclusion of this limitation renders claim 1, and its dependent claims 2-17, patentable over Tomsen et al. and Krapf et al.

It is respectfully submitted that the foregoing amendments place the application in condition for allowance. Reconsideration and further examination is requested, and a notice of allowance is earnestly solicited.

Respectfully submitted,



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